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NEXTDOOR.COM, INC.

15 UNITED STATES DISTRICT COURT

16 NORTHERN DISTRICT OF CALIFORNIA

17 SAN FRANCISCO DIVISION

18 NEXTDOOR.COM, INC., a Delaware  
corporation,

19 Plaintiff,

20 v.

21 RAJ ABHYANKER, an individual,

22 Defendant.

Case No.: 3:12-cv-05667-EMC-NMC

**[PROPOSED] FORM OF INJUNCTION  
FOR COUNT IV OF  
NEXTDOOR.COM'S COMPLAINT**

Date: October 16, 2014

Time: 1:30 p.m.

Courtroom: 5, 17<sup>th</sup> Floor

Judge: Hon. Edward M. Chen

24 At the hearing on October 16, 2014, in which the Court rendered its oral ruling granting  
25 summary judgment on Plaintiff Nextdoor.com, Inc.'s Count IV for Trademark Infringement  
26 under the Lanham Act, both parties agreed that there was additional relief the Court could order  
27 under Count IV that had not previously been entered under Count I. Nextdoor.com submits this

1 proposed form of injunction to clarify what relief is appropriate and, in particular, what specific  
 2 relief appropriate under Count IV, if entered, would obviate the need for trial of the only  
 3 remaining claim, Count III, for Cybersquatting.

4 The injunction previously entered in the Partial Judgment (Dkt 193) provides that:

5 “Abhyanker and each of his agents, servants, and employees, and those persons in active  
 6 concert or participation with any of them who receive actual notice of this order, shall not  
 7 use the NEXTDOOR mark, or any colorable imitation thereof or confusingly similar term,  
 8 in the field of online social networking for so long as Nextdoor.com or its successors has  
 not abandoned or ceased use of the NEXTDOOR mark.”

9 As stated at the October 16, hearing, Nextdoor.com believes that in addition to this relief,  
 10 and in accordance with the Lanham Act’s prohibition on false designation of origin, the  
 11 injunction on Count IV should further specify that Defendant Raj Abhyanker shall not pass off  
 12 any product that he offers as originating with, associated with, or sponsored by Nextdoor.com.

13 Further, in order to obviate the need for trial of Count III, Nextdoor.com believes that the  
 14 injunction on Count IV should specifically address the use of nextdoor.cm, or any other  
 15 “nextdoor” derived domain name, for the purpose of offering, operating, promoting, or  
 16 redirecting to any social network. As the record reflects, Defendant Abhyanker used the domain  
 17 nextdoor.cm to create a likelihood of confusion and redirect persons who visited that address to a  
 18 website operated by Abhyanker that purported to offer “a private social network for your  
 19 neighborhood.” See Dkt. 332-1 – 332-9 (Kelly Decl. ¶¶ 6, 7, 9, 11, 12 and Exhs. C, D, F, G  
 20 (describing redirect from nextdoor.cm to eatbid.com), H). Given the Court’s finding that the  
 21 NEXTDOOR mark is distinctive and that its use by Abhyanker is likely to confuse, it is  
 22 appropriate that the Court’s injunction against infringement specifically preclude the future use  
 23 by Abhyanker of nextdoor.cm in this manner. See *Compana, LLC v. Aetna, Inc.*, 2006 U.S. Dist.  
 24 LEXIS 22782, 17-19 (W.D. Wash. Mar. 27, 2006) (domain name using trademark to redirect  
 25 users supports infringement claim) citing *Nissan Motor Co. v. Nissan Computer Co.*, 378 F.3d  
 26 1002, 1006 (9th Cir. 2004); *Panavision Int’l, L.P. v. Toeppen*, 141 F. 3d 1316 (9th Cir. 1998)  
 27 (affirming, as trademark dilution under Lanham Act, injunction against use of trademark in  
 28 domain name to redirect users to site for commercial benefit); *Fagnelli Plumbing Co. v. Gillece*

1 *Plumbing & Heating, Inc.*, 2011 U.S. Dist. LEXIS 15090 at \*23 (W.D. Pa. Feb. 15, 2011)  
 2 (enjoining, as infringement under the Lanham Act, use of trademark in a domain name that  
 3 redirected consumers to the defendant's separate website).<sup>1</sup>

4 If specific injunctive relief preventing the misuse of the nextdoor.cm domain is afforded  
 5 in the injunction under Count IV, Nextdoor.com will not need to proceed forward with its trial as  
 6 to Count III, as its concern over misuse of the nextdoor.cm domain will be adequately remedied  
 7 for its business purposes.<sup>2</sup>

8 Accordingly, Nextdoor.com submits that the proposed form of injunction, attached hereto  
 9 as Exhibit A, be entered or included with respect to the Court's judgment on Count IV.

10  
 11 Dated: October 20, 2014

Respectfully submitted,

FENWICK & WEST LLP

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 14 By: /s/ Laurence F. Pulgram  
 Laurence F. Pulgram

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 16 Attorneys for Plaintiff  
 NEXTDOOR.COM, INC.

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 24 <sup>1</sup> While a mere registration of a domain name using a trademarked term may not necessarily  
 25 constitute infringement, here, as in the cases cited, Abhyanker has used, and threatens to continue  
 to use, the trademarked name for his commercial and competitive benefit.

26 <sup>2</sup> Unlike a judgment for cybersquatting, the injunction under Count IV would not direct the  
 27 conveyance of the www.nextdoor.cm name to Nextdoor.com. So long as it receives specific  
 28 injunctive relief sufficient to ensure that the offending website is not misused in the context of  
 online social networking, Nextdoor.com would be willing to forego that conveyance (as well as  
 damages), to which it would otherwise be entitled under its cybersquatting claim.

**EXHIBIT A****PROPOSED FORM OF INJUNCTION**

Pursuant to and in accordance with its order of October \_\_\_\_, 2014, the Court hereby  
ORDERS, ADJUDGES AND DECREES:

1. The Court grants enters summary judgment in favor of Plaintiff Nextdoor.com, Inc.,  
and against Defendant Raj Abhyanker on Count IV of the Complaint, for violation of  
the Lanham Act.
  - a. Abhyanker's unauthorized use of Nextdoor.com's NEXTDOOR trademark in  
Abhyanker's offering and promotion of online social networking goods and  
services is likely to confuse the public regarding the source or sponsorship of  
Abhyanker's goods and services.
  - b. Abhyanker's unauthorized and confusing use of Nextdoor.com's distinctive  
NEXTDOOR trademark is trademark infringement in violation of Section  
43(a)(1)(A) of the Lanham Act, 15 U.S.C. § 1125(a)(1)(A)
2. The Court has previously entered Partial Final Judgment Pursuant to Fed. R. Civ. P.  
54(b) and 58(a), which has become final and not been appealed. That order stated in  
part that "Abhyanker and each of his agents, servants, and employees, and those  
persons in active concert or participation with any of them who receive actual notice  
of this order, shall not use the NEXTDOOR mark, or any colorable imitation thereof  
or confusingly similar term, in the field of online social networking for so long as  
Nextdoor.com or its successors has not abandoned or ceased use of the Nextdoor  
mark." The present order provides additional injunctive relief.
3. Abhyanker and each of his agents, servants, assigns and employees, and those persons  
in active concert or participation with any of them who receive actual notice of this  
order, shall not use the term "NEXTDOOR," or any colorable imitation thereof or any  
confusingly similar term, in connection with, or in any domain names (including,  
without limitation, nextdoor.cm), offering, operating, selling, promoting, or redirecting  
to any provider of goods or services in the field of online social networking.

1 4. Abhyanker and each of his agents, servants, assigns and employees, and those persons  
2 in active concert or participation with any of them who receive actual notice of this  
3 order, shall not falsely designate, hold out, or pass off any product or service as being  
4 offered by, sponsored by, affiliated with, associated with, or endorsed by Plaintiff  
5 Nextdoor.com, Inc. or any of its officers, directors, or employees.  
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7 Dated: \_\_\_\_\_, 2014  
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10 United States District Judge  
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